IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8393 of 1989

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHUBHLAXMI MILLS

Versus

STATE OF GUJARAT

Appearance:

MR KN RAVAL for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 01/09/2000

ORAL JUDGEMENT

This is a petition by the Gujarat State Textile Corporation Ltd. against the communication dated 11.8.1989 (Annexure C) of Mamlatdar, Khambhat demanding a sum of Rs.29420/- as land revenue due against Shubh Laxmi Mills and erstwhile sick textile unit vested in and taken

over by the petitioner Corporation.

2. Ld. Counsel Mrs.P.J.Davawala appearing for the petitioner has taken me through the relevant provisions of Gujarat Sick Textile Undertaking (Nationalisation) Act, 1986. It is pointed out that Shubhlaxmi Mills was acquired as a sick textile undertaking under Section 3 of the Act of 1986 and stood vested in the State Government. Thereafter, it was transferred and stands vested in the Corporation. Under Section 5 of the said Act "every liability of the owner of the sick textile undertaking in respect of any period prior to the `appointed day' shall be the liablity of such owner and shall be enforceable against him and not against the State Government or the Corporation." Dues against the erstwhile owner of the sick textile undertaking could be recovered only through the Commissioner of Payments by lodging a claim in accordance with the procedure contained in Chapter V of the Act. The petition was filed in the year 1989 which remains unanswered as no reply affidavit has been filed on behalf of the State. In the absence of reply affidavit, the statement made by the Corporation has to be accepted that the land revenue due was for the period prior to the appointed date i.e. 1.1.1986. The provisions contained in Section 5(1) of the Act of 1986 are amply clear to show that the Mamlatdar acted under some legal misconception by issuing a notice for recovery to the Corporation for the revenue due against Shubhlaxmi Mills.

3. It is now informed by the Learned Counsel at the Bar that the Textile Corporation has also now been liquidated and an Official Liquidator has been appointed. For the purpose of this petition, the demand raised by the Mamlatdar, Khambhat by his letter dated 11.8.1999 (Annexure C) cannot be sustained. The same is contrary to the provisions contained in Section 5(1) and sub-section 2(b) of the said Section.

4. As a result, the petition is allowed. The impugned communication dated 11.8.1989 of Mamlatdar, Khambhat is set aside. It is open to the Mamlatdar to take necessary steps for recovery of land revenue permissible in law. In the circumstances, there shall be no orders as to costs.

(D.M.Dharmadhikari, CJ)

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